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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Simplification of the Depreciation Prescription Process	)	CC Docket No. 92-296
	)	

PETITION FOR RECONSIDERATION

GTE Service Corporation and
its affiliated domestic
telephone operating companies

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December 6, 1993

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PETITION FOR RECONSIDERATION

GTE Service Corporation and its affiliated domestic telephone operating companies ("GTE"), pursuant to Section 1.429 of the Commission's Rules, hereby request reconsideration of the Commission's Report and Order, FCC 93-452 (released October 20 , 1993) (the "*Report & Order*").

INTRODUCTION

The *Report & Order* adopts rules for the simplification of the depreciation process. Specifically, it adopts the Basic Factor Range Option[1] for Local Exchange Carriers ("LECs" or "exchange carriers") governed by price caps. This option establishes ranges for two parameters: (1) future net salvage, and (2) projection life. The Commission's *Order Inviting Comments*, FCC 93-492 (released November 12, 1993) sets forth proposed ranges for twenty-two plant accounts and asks for comments thereon.

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1 The various options considered by the Commission were identified in the Notice of Proposed Rulemaking herein, 8 FCC Rcd 146 (1992).

DISCUSSION

I. GTE URGES THE FCC TO RECONSIDER ITS ADOPTION OF THE BASIC FACTOR RANGE OPTION.

1. GTE joins USTA in urging the Commission to adopt the Price Cap Carrier Option rather than the Basic Factor Range Option.

In a petition for reconsideration filed concurrently herewith, the United States Telephone Association ("USTA") asks the Commission to reconsider its decision in favor of the Basic Factor Range Option. USTA presents a number of persuasive arguments that should lead the FCC to reconsider its decision and instead adopt the Price Cap Carrier Option. GTE supports USTA's petition, and adds the following further points.

Although the Price Cap Carrier Option has been adopted for AT&T, the *Report & Order* (at para. 42) specifically rejects it for price cap exchange carriers. The *Report & Order* (*id.*) determines that this option might create a "significant opportunity and incentive for the LECs to undermine the sharing component of [the] price cap plan...." Furthermore, the *Report & Order* (at para. 44) suggests that exchange carriers do not "face a level of competition that would permit granting the degree of flexibility provided by this option." The *Report & Order* (at para. 45) grounds its rejection of the Price Cap Carrier Option on the beliefs that little exchange competition exists and that existing safeguards do not counter the supposed LEC incentive to avoid sharing under price caps.

In GTE's view, the *Report & Order* fails to give adequate weight to existing safeguards that assure the integrity of the depreciation process. These safeguards include:

First: Exchange carriers are subject to Generally Accepted Accounting Principles ("GAAP"). GAAP is made applicable to exchange carriers by Parts 32 and 64 of the Commission's rules.

Second: In today's competitive market, the relevant decisions of exchange carriers are driven by the demands of customers and the needs of the network. The notion that exchange carriers would prejudice their plans for network modernization and improvement because of possible "sharing" benefits is unsubstantiated, and indeed assumes LECs would engage in economically irrational behavior.

Third: The sharing mechanism was adopted by the Commission as a "back-stop." There was never any intent on the part of the Commission that this "back-stop" should result in subversion of the essential purposes of price caps. Using sharing as a justification for keeping exchange carriers subject to the very kind of detailed supervision -- in this case of depreciation -- price caps was designed to reduce or eliminate runs counter to precisely what the Commission was seeking to accomplish.

Fourth: In response to the claim that under the Price Cap Carrier Option there would not be adequate safeguards for ratepayers, GTE endorsed Bell Atlantic's recommendation[2] that filings could be limited to one per year filed in the first quarter. This would be well in advance of any sharing requirements which would occur in the fourth quarter. This reasonable modification would assure the adequacy of safeguards.

The *Report & Order* (at para. 48) dismisses these proposed safeguards by simply stating that "[n]one of the safeguards individually minimizes the carriers' opportunity and incentive to avoid sharing through the use of depreciation expense as effectively as the basic factor range option." The protection for the integrity of the depreciation process is not a matter of "safeguards individually" but rather the combined impact of these mutually reinforcing safeguards. When considered this way, their effect is far more potent than the separate consideration reflected in the *Report & Order*.

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2 Bell Atlantic Comments at 9.

The *Report & Order* (at para. 44) bases its rejection of the Price Cap Carrier Option on the grounds that there is not enough competition in the exchange carriers' market. This action appears to have been taken without consideration of the voluminous record before the Commission in this proceeding and in other concurrent proceedings[3] establishing the present reality of competition and its ever-increasing impact.

In particular, this action could not have taken into account such dramatic and important transactions completed or announced as those involving Bell Atlantic and TCI, AT&T and McCaw, and US West and Time Warner, since the scope of these matters has come to a head just recently. Further, there are indications that exchange competition is now arising not only from the cable television firms and Competitive Access Providers, but also from power companies.[4]

The existing record establishes the reality of competition in the local exchange market.[5] The *Report & Order* itself (at paras. 55-56) recognizes that LECs are facing competition in their markets today and that this competition is "likely" to increase. In other contexts, the Commission has started to recognize exchange competition as a

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3 For example, *see* Reform of the Interstate Access Charge Rules, RM-8356, which addresses a petition for rulemaking filed by USTA.

4 Rivkin, Steven R., "While the Cable and Phone Companies Fight ... Look Who's Wiring the Home Now," THE NEW YORK TIMES MAGAZINE, September 26, 1993, at 46.

5 GTE is concerned that, by the time the Commission has collected enough "evidence" for it to believe competition exists in the exchange carrier market, the marketplace will have precluded exchange carriers from pricing products to recover the investment costs, thus in effect preempting the companies' opportunity to recover capital.

reality that must be dealt with.[6] The *Report & Order* (at para. 56), however, has deferred recognition of this competition to a future proceeding. GTE urges the FCC to recognize that presently existing competition mandates reconsideration of the Commission's adoption of the Basic Factor Range Option.

In summary: GTE joins USTA in urging the Commission to adopt the Price Cap Carrier Option.

2. GAAP is an appropriate safeguard based on the Commission treatment of depreciation as endogenous.

GTE is concerned by the Commission's finding that GAAP is not an adequate safeguard. The *Report & Order* (at para. 46) Commission states that GAAP's primary purpose is to "ensure that a company does not present a misleading picture of its financial consideration and operating results by, for example, overstating its asset values or overstating its earnings,...." GTE suggests there is no disharmony between concern for the investor and for the ratepayer – indeed application of GAAP should serve both purposes. GAAP ensures that a company's assets are valued correctly and earnings are appropriately reported. These are also goals of the Commission, and are indispensable to ensuring just and reasonable depreciation rates.

The Report & Order (*id.*): (i) insists that GAAP is designed to protect the interest of the investors and "may not always serve the interest of the ratepayers," (ii) maintains GAAP might lead to justification of additional depreciation expense to avoid sharing, and (iii) concludes that GAAP "would not effectively limit the opportunity for LECs to manage earnings so as to avoid the sharing zone as the basic factor range option," and

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6 *See* Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, and Amendment of Part 36, CC Docket No. 80-286, Second Report and Order and Third Notice of Proposed Rulemaking, FCC 93-379 (released September 2, 1993), 1993 FCC LEXIS 5539, at paras. 98-104 (adoption of zone density pricing policy).

(iv) concludes that therefore the Commission must impose constraints on the exchange carrier over and above proper application of GAAP. On these points, the Commission is clearly taking a position at odds with its underlying premise that depreciation is endogenous because it is under the control of the exchange carrier.[7] Such a position should lead to reconsideration on another basis: inconsistency with the fundamental judgment underlying the FCC's policy. Again, reconsideration by this route should lead to adopting the Price Cap Carrier Option.

In summary: GAAP is an appropriate safeguard based on the Commission's treatment of depreciation as endogenous.

II. REQUIRING THE UPDATING OF ALL PLANT ACCOUNTS AT THE TIME A NEW RATE IS PROPOSED FOR A RANGE ACCOUNT SEVERELY LIMITS AN EXCHANGE CARRIER'S INCENTIVE TO CHANGE BASIC FACTORS FOR RANGE ACCOUNTS ANNUALLY.

In the event that the FCC does not -- as suggested *infra* -- decide to adopt the Price Cap Carrier Option, GTE urges the Commission to reconsider its decision to require carriers to update all plant accounts at the time they propose any new rate for a range account. *See Report & Order* at para. 72. The effect of this provision will be to impose such burdensome requirements as to destroy, as a practical matter, any incentive to attain the benefits of simplification by changing basic factors annually.

GTE endorses the Commission's decision to allow carriers the option of seeking changes in basic factors for range accounts annually versus the current triennial schedule, but believes that the conditions imposed in order to make use of this option (updating all plant accounts) would be so difficult as to effectively remove any carrier incentive to make such changes using the simplified procedures. Though the

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7 Policy and Rules Concerning Rates for Dominant Carriers, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786, 6809 (1990) (*subsequent citations omitted*).

requirements of an annual update filing are considerably less than those for a full study filing, they are, none the less, still significant. They are significant enough to make a carrier opt not to make use of the option -- thus defeating the intended purpose of the option to grant carriers more flexibility in order to respond to technological and competitive changes.

To make this option more effective in terms of process simplification (reduction of filing requirements) and greater relevancy to changes in the technological and competitive aspects of a carrier's working environment, *i.e.*, by making full use of the flexibility afforded by the option to change basic factors annually versus triennially, the Commission should remove the requirement that all plant accounts be updated in order to change basic factors for a range account. The decision to designate an account applicable for range treatment and the establishment of basic factor ranges are not dependent on the relationship between the account and all other plant accounts. To condition the option to change factors of such an account on updating all other plant accounts is not warranted. Continuing such regulation of the depreciation process does not result in real simplification, just the apparition of simplification.

In summary: Requiring the updating of all plant accounts at the time a new rate is proposed for a range account severely limits an exchange carrier's incentive to change basic factors for range accounts annually.

III. ACTUARIAL CURVE SHAPE DATA AND ANALYSIS IS NOT NECESSARY TO ALLOW USE OF COMPANY-SPECIFIC CURVE SHAPES.

The Commission should reconsider the decision of the *Report & Order* (at para. 86) requiring carriers to submit data supporting curves employed for range account use. The rationale underlying this decision is that analysis of actual experience (mortality analysis) and the application of current curve-fitting techniques is necessary to determine carrier-specific curve shapes for range account use.

GTE maintains such an analysis is not necessary. GTE has provided analyses to the Commission demonstrating that computed mortality studies can be done on virtually all accounts, employing company-specific curve shapes without resorting to continuing mortality analysis. Under this kind of analysis, there is no impact on the resulting life calculation significantly different from the result obtained by mortality studies.[8] GTE has used the resultant simplified process since 1990, and has found it to be a significant contributor to GTE's ability to streamline its capital recovery procedures. The elimination of this burdensome and non-essential analysis has resulted in a truly "simplified" process. GTE believes this, or a similar, process would be appropriate for use on range accounts.

Accordingly: GTE urges the Commission to reconsider its requirement that carriers must submit data reflecting their actual experience and current curve-fitting techniques in order to determine company-specific curves for range accounts.

IV. THE FCC SHOULD ELIMINATE THE REQUIREMENT FOR A STUDY WHEN AN EXCHANGE CARRIER MOVES INTO THE RANGE PRESCRIBED BY THE COMMISSION.

The *Report & Order* requires a complete study in order to justify moving a given parameter into the range established by the Commission. The effect is once again to negate the benefits of simplification.

Assume GTE has submitted data justifying changing the life of a given account from 10 years currently prescribed. Assume the range prescribed by the FCC under simplification for that account is from 6 to 8 years. Now assume the carrier wishes to set the life within the prescribed range: 7 years.

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[8] *See* "GTE Proposal To FCC For Simplification Of Future Depreciation Studies" and April 25, 1989 letter from Adrian. J. Poitras - GTE Director Capital Recovery, to Fatina K. Franklin - FCC Chief Depreciation Rate Branch, proposing simplification of the FCC's depreciation process for GTE jurisdictions.

Inasmuch as the 6-8 year range was established by the FCC based on a calculated industry average -- and the present lives of GTE are taken into account in calculating the industry average -- there should be no requirement for a study when GTE changes its life to fit the FCC's prescription. Otherwise, the old burdens remain, thus defeating the Commission's simplification purpose. Further, if the range prescribed by the Commission is statistically valid, it should be statistically correct to employ the resulting range as representative of all samples that went into calculation of the range -- including GTE's.

Accordingly: GTE urges the Commission to eliminate the requirement for a study when an exchange carrier moves into the range prescribed by the Commission.

Respectfully submitted,

GTE Service Corporation and
its affiliated domestic
telephone operating companies

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December 6, 1993

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Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "Petition for Reconsideration" have been mailed by first class United States mail, postage prepaid, on the 6th day of December, 1993 to all parties of record.

Ann D. Berkowitz